

## Federal Housing Finance Agency.

## § 1202.3

operating duplication equipment. Direct costs do not include overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

*Employee*, for the purposes of this regulation, means any person holding an appointment to a position of employment with FHFA or FHFA-OIG, or any person who formerly held such an appointment; any conservator appointed by FHFA; or any agent or independent contractor acting on behalf of FHFA or FHFA-OIG, even though the appointment or contract has terminated.

*Fee Waiver* means the waiver or reduction of fees if the requester can demonstrate that certain statutory standards are met.

*FHFA* means the Federal Housing Finance Agency and includes its predecessor agencies, the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB).

*FHFA-OIG* means the Office of Inspector General for FHFA.

*FOIA Officer and Chief FOIA Officer* are persons designated by the FHFA Director to process and respond to requests for FHFA records under FOIA.

*FOIA Official* is a person designated by the FHFA Inspector General to process requests for FHFA-OIG records under FOIA.

*FOIA Public Liaison* is a person who is responsible for assisting requesters with their requests.

*Office of Finance* means the Office of Finance of the Federal Home Loan Bank System or any successor thereto.

*Readily reproducible* means that the requested record or records exist in electronic format and can be downloaded or transferred intact to a computer disk, tape, or another electronic medium with equipment and software currently in use by FHFA or FHFA-OIG.

*Record* means information or documentary material FHFA or FHFA-OIG maintains in any form or format, including electronic, which FHFA or FHFA-OIG—

(1) Created or received under federal law or in connection with the transaction of public business;

(2) Preserved or determined is appropriate for preservation as evidence of

operations or activities of FHFA or FHFA-OIG, or because of the value of the information it contains; and

(3) Controls at the time it receives a request for disclosure.

*Regulated entities* means the Federal Home Loan Mortgage Corporation and any affiliate thereof, the Federal National Mortgage Association and any affiliate thereof, and the Federal Home Loan Banks.

*Requester* means any person seeking access to FHFA or FHFA-OIG records under FOIA. A requester falls into one of three categories for the purpose of determining what fees may be charged. The three categories are—

(1) Commercial;

(2) News media, scientific institution or educational; and

(3) Other.

*Search time* means the amount of time spent by or on behalf of FHFA or FHFA-OIG in attempting to locate records responsive to a request, whether manually or by electronic means, including but not limited to page-by-page or line-by-line identification of responsive material within a record or extraction of electronic information from electronic storage media.

*Submitter* means any person or entity providing confidential information to the Federal Government. The term “submitter” includes, but is not limited to corporations, state governments, and foreign governments.

*Unusual circumstances* means the need to—

(1) Search for and/or collect records from agencies, offices, facilities, or locations that are separate from the office processing the request;

(2) Search, review, and/or duplicate a voluminous amount of separate and distinct records in order to process a single request; or

(3) Consult with another agency or among two or more components of FHFA or FHFA-OIG that have a substantial interest in the determination of a request.

[76 FR 29634, May 23, 2011, as amended at 77 FR 4645, Jan. 31, 2012]

### § 1202.3 What information can I obtain through FOIA?

(a) *General.* FHFA and FHFA-OIG prohibit employees from releasing or

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disclosing confidential or otherwise non-public information that FHFA or FHFA-OIG possesses, except as authorized by this regulation, by the Director of FHFA for FHFA records, or by the FHFA Inspector General for FHFA-OIG records, when the disclosure is necessary for the performance of official duties.

(b) *Records.* You may request that FHFA or FHFA-OIG disclose to you its records on a subject of interest to you. FOIA only requires the disclosure of records. It does not require FHFA or FHFA-OIG to create compilations of information or to provide narrative responses to questions or queries. Some information is exempt from disclosure.

(c) *Reading rooms.*—(1) FHFA maintains electronic and physical reading rooms. FHFA's physical reading room is located at 400 Seventh Street, SW., Eighth Floor, Washington, DC 20024, and is open to the public by appointment from 9 a.m. to 3 p.m. each business day. For an appointment, contact the FOIA Officer by calling (202) 649-3803 or by e-mail at [foia@fhfa.gov](mailto:foia@fhfa.gov). The electronic reading room is part of the FHFA Web site at <http://www.fhfa.gov>. FHFA-OIG also maintains electronic and physical reading rooms. FHFA-OIG's physical reading room is located at 400 Seventh Street, SW., Third Floor, Washington, DC 20024, and is open to the public by appointment from 9 a.m. to 3 p.m. each business day. For an appointment, contact FHFA-OIG by calling (202) 730-2824 or by e-mail at [bryan.saddler@fhfaoig.gov](mailto:bryan.saddler@fhfaoig.gov). The electronic reading room is part of the FHFA-OIG Web site at <http://www.fhfaoig.gov>.

(2) Each reading room has the following records created after November 1, 1996, by FHFA or its predecessor agencies, or by FHFA-OIG, and current indices to the following records created by FHFA or its predecessor agencies or FHFA-OIG before or after November 1, 1996:

- (i) Final opinions or orders issued in adjudication;
- (ii) Statements of policy and interpretation that are not published in the FEDERAL REGISTER;
- (iii) Administrative staff manuals and instructions to staff that affect a

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member of the public and are not exempt from disclosure under FOIA; and

(iv) Copies of records released under FOIA that FHFA or FHFA-OIG determines have become or are likely to become the subject of subsequent requests for substantially similar records.

[76 FR 29634, May 23, 2011, as amended at 77 FR 4645, Jan. 31, 2012]

### § 1202.4 What information is exempt from disclosure?

(a) *General.* Unless the Director of FHFA or his or her designee for FHFA records, the FHFA Inspector General or his or her designee for FHFA-OIG records, or any regulation or statute specifically authorizes disclosure, neither FHFA nor FHFA-OIG will release records that are—

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and in fact is properly classified pursuant to such Executive Order;

(2) Related solely to FHFA's or FHFA-OIG's internal personnel rules and practices;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552a), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Contained in inter-agency or intra-agency memoranda or letters that would not be available by law to a private party in litigation with FHFA or FHFA-OIG;

(6) Contained in personnel, medical or similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—